

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal Universal Service	)	Docket No. 96-45
	)	
Federal State Joint Board	)	Docket No. 03-109

**THE REPLY COMMENTS OF  
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission (PaPUC) hereby submits these Reply Comments in response to the Federal Communication Commission's (FCC) Public Notice seeking Comment on the FCC's referral of issues on Eligibility, Verification, and Outreach for the Federal Universal Service Fund (FUSF) current Lifeline and Low-Income programs to the Federal-State Joint Board on Universal Service (Joint Board).

The PaPUC appreciates the opportunity to file these Reply Comments. As an initial matter, the PaPUC's Reply Comments should not be construed as binding on the PaPUC in any proceeding before the PaPUC. Moreover, the position set out in these Reply Comments may change in response to subsequent events. This includes a later review of other filed initial and reply comments and legal or regulatory developments at the federal or state level.

The PaPUC Reply Comments support those comments which raise major concerns with this referral. The PaPUC is concerned with the scope and precise timing of the referral, the potentially premature inclusion of broadband services in the universe of FUSF Lifeline support, the implications of a federally mandated automatic enrollment policy on the states, and the establishment of a national and centralized data base for electronic certification and verification of consumer eligibility for Lifeline supported services.

In addition, the PaPUC strongly supports those comments that put forward the proposition that the provision of Lifeline supported services should meet certain minimum standards, especially where such FUSF support involves prepaid wireless services.

**A. The Definition of Universal Service With A Broadband Component Is Essential**

There is an absolute need to arrive at an appropriate and new definition of universal service that includes a broadband component, before deciding on whether the FUSF can provide support through the Lifeline mechanism to eligible end-users for services that *include* a broadband component. The FCC has already expressed its intention to adopt a new conceptual definition of universal service with a broadband component in its National Broadband Plan (NBP):

The goal of reform is to provide everyone with *affordable voice and broadband*. The reforms must be achieved over time to manage the impact on consumers, who ultimately pay for universal service.

FCC, *Connecting America: The National Broadband Plan* (Washington, D.C., March 16, 2010), at 141 (emphasis added – hereinafter referenced as NBP).

It is intuitive that the new conceptual definition of universal service needs to contain the appropriate standards and classifications for both its conventional voice and broadband components. Such standards and classifications can and will play a role in other crucial facets of implementation for the FCC's NBP, especially on issues involving continuous support from the FUSF for telecommunications services and facilities, and, potentially, for similar support from state-specific USFs as well. Lifeline supported services – potentially including those with a broadband component – are a clear subset of a redefined universal service concept.

Consequently, there is a need to first arrive at a redefined universal service concept that includes a broadband component and then discuss how this redefined universal service can be available to eligible end-users that qualify for Lifeline support from the FUSF, and at what appropriate levels of support. This method does not place the proverbial “cart before the horse,” and also assures a better degree of integration, coordination, and reconciliation of a multiplicity

of goals in the FCC's NBP, including but not limited to the reform and redirection of the FUSF, and the national broadband deployment and adoption.

The redefinition of the universal service concept is both legally and substantively well within the purview of the Joint Board. For example, Section 254(c) of the Telecommunications Act of 1996 as amended specifically states:

(1) IN GENERAL. — Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board is recommending, and the Commission is establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services—

- (A) are essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (C) are being deployed in public telecommunications networks by telecommunications carriers; and
- (D) are consistent with the public interest, convenience and necessity

(2) ALTERATIONS AND MODIFICATIONS. — The Joint Board may, from time to time, recommend to the Commission modifications in the definitions of the services that are supported by Federal universal service support mechanisms.

(3) SPECIAL SERVICES. — In addition to the services included in the definition of universal services under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h).

47 U.S.C. § 254(c).

The narrow focus on Lifeline and Low-Income detracts from the need to have the Joint Board, a board established pursuant to federal law, comprehensively consider major issues that are related to the National Broadband Plan. The Joint Board's narrow input on Lifeline and Low-Income is important but cannot be considered in a vacuum.

In addition, the request for input on including broadband service in the current Lifeline and Low-Income programs does not address the legality of including broadband service within

the panoply of services supported under Section 254, 47 U.S.C. § 254. For one thing, it is not clear how the Joint Board can address a service that the FCC and the Joint Board have not collectively decided to include as one of the services supported by the FUSF, a requirement set out in Sections 214 and 254 of current law. 47 U.S.C. §§ 214, 254. Consequently, the issue of supporting a Lifeline or Low-Income program for broadband cannot be addressed without first determining if broadband is going to be a service supported just like current narrowband voice service.

**B. Lifeline Supported Broadband Raises A Number of Significant Issues**

The potential inclusion of a broadband component into Lifeline service that is supported by the FUSF raises a number of significant issues. Some of these issues include but are not limited to the following:

1. There is a need to define the “affordable broadband service” or the “affordable bundled service package” inclusive of a broadband component that can enjoy FUSF support through the Lifeline and Link-up mechanisms.
2. This definition needs to address modes of communication in a technology and competitively neutral manner or appropriately differentiate between wireline and wireless modes of telecommunications and communications services.
3. This definition needs to address relevant technological standards and classifications for the broadband component such as downloading and uploading speeds potentially for both wireline and wireless modes of telecommunications and communications services.
4. This definition needs to adopt costing and/or pricing standards for the “affordable broadband service” or the “affordable bundled service package” with the broadband component in order to derive the appropriate level of FUSF support through the existing Lifeline and Link-up mechanisms. An associated issue is the availability and distribution of related customer premises equipment (CPE) or other wireline or wireless devices that will provide the necessary accessibility for Lifeline and Link-up eligible end-users.<sup>1</sup>
5. The potential adoption of an “affordable broadband service” or of an “affordable bundled service package” with a broadband component for Lifeline and Link-up eligible end-users must be coordinated and reconciled with the FCC’s initiatives for the reform and potential redirection of the FUSF.

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<sup>1</sup> District of Columbia Public Service Commission, Comments, July 15, 2010, at 5.

It is intuitive that the inclusion of a broadband component in Lifeline supported services will lead to enlarged support obligations for the FUSF. As the National Association of Utility Consumer Advocates (NASUCA) correctly points out, the simple increased subscribership to Lifeline services and the current FUSF increased payments to prepaid wireless eligible telecommunications carriers (ETCs) have the potential of increasing the size of the low-income fund portion of the FUSF.<sup>2</sup> Naturally, the inclusion of a broadband component to Lifeline supported services will magnify this effect which will have to be reconciled and coordinated with the FCC's NBP targets of reform and redirection for the overall FUSF.

These are issues that must be afforded a detailed examination by the Joint Board. However, the six-month time frame that has been established by the Referral Order for the issuance of a Joint Board recommended decision may not permit such a detailed examination. Therefore, it is not surprising that certain interested parties have declined so far to offer comments on the issue of broadband inclusion in Lifeline supported services.<sup>3</sup>

**C. States Should Continue to Have Discretion Regarding Automatic Enrollment**

The PaPUC urges the Joint Board to carry out a detailed examination of the benefits and related administrative burdens and costs that relate to the automatic enrollment of individuals in the Lifeline and Link-up program when such individuals qualify for other public assistance programs. Although automatic enrollment may accomplish the laudable and desirable goal of increasing subscribership to the Lifeline and Link-up program, it does not exist without "significant administrative, technological, and financial burdens" especially in view of the current realities of state and federal government budget deficits and fiscal constraints "in the current economic climate."<sup>4</sup> The Joint Board cannot address a federal mandate obliging the states to institute automatic enrollment without determining how individual states will be able to fund such a mandate and whether the resulting benefits will outweigh the corresponding costs.

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<sup>2</sup> NASUCA Comments, July 15, 2010, at 3-4, and n. 10, 11.

<sup>3</sup> Nebraska Public Service Commission Comments, at 8.

<sup>4</sup> Nebraska Public Service Commission Comments, at 4.

The PaPUC recommends that the states should maintain their individual discretion to institute automatic enrollment programs within their respective jurisdictions.

**D. Eligibility Certification, Verification And the Proposed National Data Base**

The matter of third party verification must be addressed. The PaPUC is particularly concerned by recent industry proposals that effectively shift various costs for eligibility, verification, and outreach to the states while the carriers obtain the benefit of resources obtained for Lifeline and Low-Income supported programs. The PaPUC is opposed to a solution in which the states exclusively bear the burden of automatic enrollment and verification while the carriers secure the benefit of cash for delivering Low-Income and Lifeline supported services, including any potential broadband component.

The Joint Board must examine in detail the proposals involving the institution of a national data base that will assist with the functions of eligibility certification and verification for Lifeline and Link-up qualified individuals.<sup>5</sup> Although such proposals contemplate the creation of this national data base at the national/federal level, e.g., Universal Service Administrative Company (USAC), it is intuitive that the individual states must undertake similar efforts at their level so that the associated eligibility certification and verification information seamlessly flows between appropriate state agencies, e.g., state public assistance or welfare agencies and/or programs and the state public utility commissions, the ETCs, and the national data base. In short, such proposals are not and will not be “cost free” for the individual states.

Related costs for the states will include setting up and continuously operating and updating the appropriate data bases, as well as establishing the appropriate telecommunications and information links and electronic data interfaces (EDIs) with the national data base. Related issues will include whether existing state data bases will need to be converted so that they can be compatible with the national data base and at what cost, or whether the national data base will have the inherent capability to perform seamless data protocol conversions while interacting with

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<sup>5</sup> AT&T Comments, July 15, 2010, at 9-11.

the state data bases (data base interoperability). So far, the existing proposals have stayed largely silent on how the related non-recurring and recurring costs will be allocated among the individual states, the national/federal level, and the ETC industry.

An additional and very important area of consideration for the Joint Board relating to the formation of a national data base and its interaction with individual state data bases is the issue of privacy and safeguarding of personal data. In this area there must be a legal reconciliation of potentially differing state and federal standards, especially in situations where state standards for privacy protection and safeguarding of personal data exceed the corresponding federal standards that would apply to the contemplated national data base.

**E. Minimum Standards for Lifeline Supported Services**

The PaPUC strongly supports those comments that propose the adoption of minimum standards for Lifeline supported services. The PaPUC particularly notes NASUCA's suggestion for "establishing minimum standards of service for prepaid wireless Lifeline services, facilities-based or not, and satisfy the public interest by providing adequate value for Lifeline recipients and comply with the universal service mandates of the Act."<sup>6</sup> It is intuitively understood that the Lifeline offering of approximately an hour of free prepaid wireless calls per month cannot be easily equated with other wireless Lifeline offerings that include hundreds of minutes of free calls per month plus free wireless calling over weekend periods, or wireline offerings where state utility commissions including the PaPUC have permitted the application of Lifeline discounts to wireline bundled service packages that include both local and long-distance calls.

**F. Conclusion**

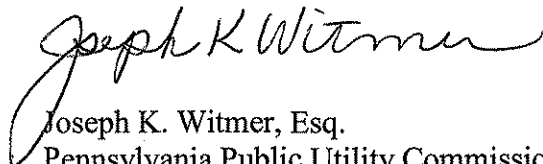
The PaPUC is not opposed to the Lifeline or Low-Income programs and has actively undertaken and supported both relevant activities and concrete regulatory actions designed to increase Lifeline and Link-up program subscribership within the Commonwealth of

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<sup>6</sup> NASUCA Comments, July 15, 2010, at 5.

Pennsylvania.<sup>7</sup> The PaPUC is opposed to using a narrow and limited referral on Lifeline and Low-Income eligibility, verification, and outreach as a vehicle to include a broadband component in Lifeline and Link-up supported services absent an initial redefinition of the universal service concept that is legally well within the purview of the Joint Board. This concern is intensified if the final result requires the states to assume the costs for these efforts either unilaterally or through a third party.

Pennsylvania Public Utility Commission

A handwritten signature in black ink, reading "Joseph K. Witmer". The signature is fluid and cursive, with the first name "Joseph" and last name "Witmer" clearly legible.

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<sup>7</sup> See generally 66 Pa. C.S. § 3019(f) (Pennsylvania law obligations for the ETC provision of Lifeline services).